

NH Medicaid Medical Care Advisory Committee (MCAC)
Monday, September 12, 2016
1:00-3:00 pm
NH Hospital Association
125 Airport Road
Concord, New Hampshire

Meeting Minutes

Member/Alternate Attendees:

Jay Couture, Diane Dedousis, Earle Kolb, Michele Merritt, Paula Minnehan, Sarah Morrison, Ken Norton, John Richards, Cindy Robertson, Richard Royse, Ann Schwartzwalder, Mel Spierer, Kristine Stoddard, Carolyn Virtue, Michelle Winchester

Members Absent:

Michael Auerbach, Lisa DiMartino, Travis Harker, Ellen Keith, Doug McNutt

DHHS Staff Attendees:

Deb Fournier, Commissioner Jeffrey Meyers, Leslie Melby, Deb Scheetz

Guests:

Tyler Brannen, NH Insurance Department

Introductions/Chair Comments/Announcements

Members, staff and guests introduced themselves.

Michelle offered the Committee's congratulations to Deb Fournier as the new Medicaid Director.

Michelle requested MCAC members to send requests for agenda items to her. A reminder will be sent two to three weeks before meetings.

The MCAC website at <http://www.dhhs.nh.gov/ombp/mcac.htm> has been updated. Members should let Michelle know if items are missing or need to be enhanced.

Review/Approval of July 11, 2016 MCAC meeting minutes

Kristine Stoddard suggested one correction on page 1. The correction will be noted.

Motion to approve: M/S/A

Rules Review - Jane Hybsch

- He-W 541 Family Planning Services: expire 9/16/16. The rule permits DHHS to provide family planning services to Medicaid recipients of childbearing age. Most changes to the rule are editorial. There was no discussion.

- He-W 531 Physician Services. Telehealth: Services may be provided for fee-for-service recipients via telehealth for specialty medical care. State law allowed coverage for telehealth under a six-month pilot, which did not include behavioral health services. Continuation of telehealth coverage beyond the pilot depends on future legislative authority.

Gender reassignment surgery: surgeries are covered when medically necessary. The federal DHHS Office of Civil Rights issued a final rule to implement ACA coverage for gender reassignment. NH

Medicaid rule incorporates Anthem's clinical criteria for gender reassignment surgeries that are very similar to regulations adopted by other states' Medicaid programs. DHHS will monitor future changes to the Anthem criteria and decide whether or not to adopt those changes.

Gender reassignment surgery for children under 18 will be subject to EPSDT provisions under single case development review. These services are not automatically covered for children due to concerns of the irreversible nature of the surgery. The Department is continuing to sort through how requests will be evaluated under EPSDT.

If Anthem's standards change in the future, DHHS will re-open the rule. The Anthem criteria are incorporated by reference (via a link), rather than written directly into the rule. The reference is necessary because the format employed by Anthem does not comply with the required rules format and standards. However, RSA 541-A requires state agencies provide a hard copy for anyone who requests it.

Additional questions were raised about how the service for children would be evaluated using Anthem's adult standard. A suggestion was made that DHHS clarify how EPSDT will be applied to this service. Gender reassignment surgeries will be covered by the Medicaid MCOs, but MCOs may develop their own criteria which cannot be more restrictive than FFS.

Concerns were expressed about evaluating a service as medically necessary versus cosmetic, e.g. Electrolysis, when it is necessary for surgery. Non-covered procedures will be reviewed for medical necessity when requested. Denials will not be automatic. Concern was raised that MCOs will not be aware that additional review should be provided and that lack of MCO review would be inconsistent with FFS. If the MCO denies, and the denial is upheld at the MCO level, members may appeal to DHHS.

MCAC was informed of the medical need criteria developed by the World Professional Association for Transgender Health. Michelle Winchester asked members to send comments to her

DHHS Updates

Commissioner Meyers acknowledged Deb Fournier's appointment as Medicaid Director and the outstanding ability, energy and commitment she brings to the position.

Managed Care Re-procurement: DHHS wants to move forward with re-procurement for managed care. Under SB 147, the Legislature contemplated a five-year program. However, the program was delayed and will only have been in effect for three years. This shorter time period was a major consideration for re-procurement.

Managed Care Step 2 is another major factor when considering re-procurement. Though the Legislature intended to include all Medicaid recipients in managed care, the Step 2 build is just now taking place, beginning with CFI and nursing services. Other states have implemented managed care for CFI and nursing, so it is likely that offering these services under a capitated rate will work in NH. Once the SB 553 working group completes its work on CFI and nursing, waiver services will be addressed with the next Legislature, Governor, MCAC, and stakeholders. In addition, re-procurement requires considerable time and resources on the part of the state and the companies that respond. Therefore, the Commissioner recommended extension of the current MCO contracts for one year through June 30, 2018. The draft RFP will be subject to public comment. MCOs will be in place July 1, 2018.

In response to concerns raised that the elderly population is being moved into managed care while the transition for waived groups is delayed, the Commissioner clarified that he is not suggesting excluding DD and ABD groups. There may be alternative managed care models for these groups. He noted that the fee-for-service system is no longer sustainable. Other states have successfully incorporated elderly services into managed care. The Commissioner emphasized that there must be consensus to implement. That is why a stakeholder group was formed so that, as the work progresses, a plan will be outlined and subgroups will further develop.

Q: Do the current contracts allow for extension or must the Department go back to G&C?

A: DHHS must obtain G&C approval to extend the current contracts. The amendment will extend the contracts for one year; and will include new language that any rate increase for FY 18 will be based on an actuarial determination. It must be consistent with and be no more than the average annual trend, be actuarially sound, and CMS-approved.

Q: Is DHHS looking at more than 2 MCOs?

A: Having three MCOs makes sense in the event that one drops out. They must be economically efficient in terms of the number of members in each plan.

Q: Is NH being penalized for having been the first to do away with its institution for people with developmental disabilities and thus having no institutional numbers to support its position?

A: This should be explained to leadership.

Q: MCOs want to reduce their costs, but waived services are costly, especially for very expensive patients. What safeguards will be included in the contracts to ensure that people are not institutionalized?

A: The department will ensure a community-based system for its beneficiaries.

NHID Network Adequacy Rule: Tyler Brannen

Tyler Brannen of the NH Insurance Department (NHID) presented an overview of work undertaken to develop a new model of network adequacy standards. The current rules have been in place for ten years. All states are struggling with how to set up network adequacy rules.

The challenge for NHID is to develop time and distance standards for access within the limits of county-level determinations. If an insurance company cannot meet the requirement, they are not allowed to market their product in that county.

The Network Adequacy Working Group is looking at incorporating telehealth services. The network adequacy rules must be adjusted to the way people access services, e.g. routine and specialized services. Primary care should be available locally. The state's CHIS claims data is being used to inform the rules. The new rules must be finalized in time for insurance companies to sell their plans in 2018. They must also meet federal requirements for the NH Exchange.

Comments: Behavioral health is problematic in terms of the population is not sought out by insurers due to high expenses. If the standards are set too high, companies cannot comply.

How will NHID know that behavioral health providers do not provide substance use disorder services?

A: Claims data will reveal whether providers are billing for the service.

NHHPP, Proposed Waiver Amendment - Michele Merritt

Michele Merritt provided a handout, "NHHPP Waiver Amendment: Essential Background and Talking Points/ Sample Federal level Comments" authored by Tom Bunnell. Comments are due Sept 16th. Michele offered to compile comments for MCAC. NH Legal Assistance has submitted comments which NAMI has signed. Sarah Mattson Dustin of NHLA offered MCAC to sign on to their comments if there is agreement with NHLA's position which tracks with Tom Bunnell's draft. With very little time to develop comments, Michelle Winchester suggested the NHLA letter be forwarded to members for a vote.

Rules Review (continued)

Tashia Blanchard presented He-W 520, General program and provider requirements (fingerprinting). Per the ACA, certain providers are considered high risk for fraudulent billing activities and are required to undergo a criminal background check, including fingerprinting. This rule will be submitted as an interim rule on November 1, 2016. The rule will impact DME providers, home health agencies, and any provider excluded from participating in a federal program in the last ten years. A grandfather clause excludes providers active prior to Aug 2015 or who had a background check for Medicare or another Medicaid agency. NH projects this rule will impact 4-5 applicant providers per year.

MCAC Topics:

1. By-Laws. Will be sent out with the agenda for the October 17th meeting
2. MCAC rules process. A meeting is scheduled to finalize the process and will be presented to the MCAC when complete.

Review Tasks:

- Michelle Winchester will review the World Professional Association for Transgender Health coverage criteria against the Medicaid list of non-covered services. She will send a reminder to members to send her their comments.
- Michele Merritt will send Michelle Winchester the NHLA comments on the NHHPP Waiver Amendment
- DHHS will send the MCAC By-laws along with the October 17th agenda
- MCAC Rules Process: Deb Scheetz and Michelle Winchester will meet to work out the timing of policy and process issues to be addressed before rules expire.

The next meeting will be held Monday, October 17, 2016 at the NH Hospital Association, 1:00-3:00pm